

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 750 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE J.R.VORA

- =====
1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

SOAB HAJI ABDULRAHIM SABU

Versus

STATE OF GUJARAT

Appearance:

1. Special Criminal Application No. 750 of 2004
M/S THAKKAR ASSOC. for Petitioner
MR PR ABICHANDANI, APP for Respondent No.1 - STATE
..... for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE J.R.VORA

Date of decision: 15/12/2004

ORAL JUDGEMENT

1. Heard learned senior counsel Mr.P.M.Thakkar, for petitioner and learned APP Mr.P.R.Abichandani, for respondent No.1 - State. The matter was heard finally by consent of learned advocates for the parties.

2. As per the brief facts of the case, the Truck bearing Registration No.GJ-17-T-8452 was apprehended by the Forest Department and in pursuance of the order passed in departmental proceedings on 01.03.2000, the said Truck along with the goods was ordered to be confiscated. The present petitioner, therefore, preferred an appeal being Forest Appeal No.10 of 2000 before the Court of Sessions at Vadodara.

3. The aforesaid appeal came to be dismissed by the learned Sessions Judge, Vadodara vide his order dated 31.07.2000 and hence, this Special Criminal Application under Article 227 of Constitution of India and Section 482 of Code of Criminal Procedure, with a prayer that the order passed by learned Sessions Judge, Vadodara in Forest Appeal No.10 of 2002 below Ex.18 (Judgment) be quashed and set aside and Truck bearing Registration No.GJ-17-T-8452 be released to the petitioner on such terms and conditions, as may be deemed fit by this Court.

4. During hearing of the matter, learned senior counsel for petitioner stated that the matter can be disposed of, by an order directing the Forest Department to return the said Truck to the petitioner on a condition to deposit Rs.1,50,000-00 [Rupees One Lac Fifty Thousand Only] with respondent No.2. It was stated that the Truck is old and is of 1995 model. It was stated that this Truck is only means of livelihood of the petitioner, and instead of confiscation of the Truck, the petitioner is prepared to deposit the amount to the tune of Rs.1,50,000-00 [Rupees One Lac Fifty Thousand Only] and the Truck be released to the petitioner, which would require only modification of the order impugned and not quashing.

5. Having heard both the learned advocates and without entering into the merits of the case, having regard to the Truck being old one and ends of justice would meet, if request made by learned advocate for petitioner is accepted with a further direction to the petitioner to furnish undertaking to this Court and respondent No.2 - Forest Department to the extent that on releasing of such Truck, the petitioner shall not use the said Truck in a manner constituting any offence under the Forest Act or any violation of the provisions of the Indian Forest Act.

6. In the result, this application is allowed to the extent that the order passed by the learned Sessions Judge, Vadodara in Forest Appeal No.10 of 2002 is

modified to the extent that respondent No.2 - Forest Department shall release the Truck bearing Registration No.GJ-17-T-8452 to the petitioner on depositing an amount of Rs.1,50,000-00 [Rupees One Lac Fifty Thousand Only] with respondent No.2 - Forest Department. The petitioner is directed to furnish an undertaking before this Court as well as before respondent No.2 that he shall not use the said Truck No.GJ-17-T-8452 in violation of the provisions of the Indian Forest Act.

[J. R. VORA, J.]

(vijay)